

United States
3
Circuit Court of Appeals
For the Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiff in Error,
vs.

KING COUNTY, WASHINGTON, a Municipal
Corporation, CLAUDE C. RAMSEY, LOU
C. SMITH and THOMAS DOBSON, In-
dividually and as County Commissioners for
King County, Washington,
Defendants in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of
the Western District of Washington, Northern Division.

FILED
DEC 1 - 1903
F. D. MCGOWAN
CLERK

United States
Circuit Court of Appeals
For the Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiff in Error,
vs.

KING COUNTY, WASHINGTON, a Municipal
Corporation, CLAUDE C. RAMSEY, LOU
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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Counsel.

ROBERT C. SAUNDERS, Esq., United States Attorney, Attorney for Plaintiff in Error,
310 Federal Building, Seattle, Washington.

FRANCIS C. REAGAN, Esq., Assistant United States Attorney, Attorney for Plaintiff in Error,
310 Federal Building, Seattle, Washington.

MALCOLM DOUGLAS, Esq., Prosecuting Attorney for King County, Washington, Attorney for Defendants in Error,
431 County-City Building, Seattle, Washington.

HOWARD A. HANSON, Esq., Deputy Prosecuting Attorney for King County, Washington, Attorney for Defendants in Error,
431 County-City Building, Seattle, Washington.

Hon. L. L. THOMPSON, Attorney General, State of Washington, Attorney for Defendants in Error,
Olympia, Washington. [1*]

*Page-number appearing at foot of page of original certified Transcript of Record.

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSEY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Complaint.

The United States of America, by its attorneys, Robert C. Saunders, United States Attorney for the Western District of Washington, and F. C. Reagan, Assistant United States Attorney for the Western District of Washington, brings this its complaint against King County, Washington, a municipal corporation, and Claude C. Ramsey, Lou C. Smith and Thomas Dobson, individually and as County Commissioners for King County, Washington (hereinafter called the defendants), and for its cause of action herein alleges as follows, to wit:

I.

That the above-named defendant, King County, Washington, is a municipal corporation organized and existing under the laws of the State of Washington, and was such corporation from November

1, 1917, up to January 1, 1921, and that the principal office of said corporation where its books of accounts and other data from which its return to the Clerk of Internal Revenue can be prepared, is and at all times herein mentioned has been located in the city of Seattle, State of Washington. [2]

II.

That the defendants, Claude C. Ramsey, Lou C. Smith and Thomas Dobson, are the duly elected, qualified and acting County Commissioners of King County, Washington, a municipal corporation.

III.

That the defendants, and each of them, from the first day of November, 1917, to the first day of January, 1921, maintained and operated lines of ferry-boats for the transportation of freight and passengers on various routes between the city of Seattle and different points within and without the county of King, Washington.

IV.

That the Act of Congress of October 3, 1917, and the Act of Congress of February 4, 1919, provides that a tax shall be levied, assessed, collected, and paid, said tax to be based upon the amount paid for transportation, by the persons paying for the services or facilities rendered, and that the persons receiving such payments should collect the tax and make monthly returns, and pay over the tax so collected to the Collector of Internal Revenue for the district in which said services were rendered.

V.

That the said defendants, and each of them wil-

fully failed, refused and neglected to make such collections and make said returns from November 1, 1917, to January 1, 1921, as required by law, to the Collector of Internal Revenue of the District of Washington, monthly, or at any other time.

VI.

That by reason of the wilful failure, neglect and refusal of the said defendants, and each of them, to collect said tax and make [3] the returns provided by law, the plaintiff has been deprived of the sum of \$5,719.04, and by reason of said failure, neglect and refusal of said defendants, they and each of them became, and are, liable to the penalty prescribed by said acts of Congress in the sum of \$5,719.04.

WHEREFORE, plaintiff prays that it do have and recover of and from said defendants, and each of them, the sum of \$5,719.04, together with its costs and disbursements herein.

ROBERT C. SAUNDERS,

United States Attorney.

F. C. REAGAN,

Assistant United States Attorney.

United States of America,
Western District of Washington,
Northern Division,—ss.

F. C. Reagan, being first duly sworn, on his oath deposes and says: That he is Assistant United States Attorney for the Western District of Washington; that he has read the foregoing complaint,

knows the contents thereof; that the same is true as he verily believes.

F. C. REAGAN,

Subscribed and sworn to before me this 17th day of March, 1921.

[Seal U. S. District Court.]

FRANK L. CROSBY, Jr.,

Deputy Clerk, U. S. District Court, Western District of Washington.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Mar. 17, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [4]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Demurrer.

Come now King County and Claude C. Ramsay, Lou C. Smith and Thomas Dobson, individually and as County Commissioners for King County, Washington, defendants above named, and demur to the complaint in the above-entitled action upon the following grounds:

I.

That it appears from the facts of said bill of complaint that the Court has no jurisdiction of the subject matter of said action.

II.

That the said bill of complaint does not state facts sufficient to constitute a cause of action.

III.

That there is a misjoinder of parties defendant in the above-entitled action in that the defendants Claude C. Ramsay, Lou C. Smith and Thomas Dobson are each impleaded individually. [5]

IV.

That there is a misjoinder of parties defendant in the above-entitled action in that the defendants Claude C. Ramsay, Lou C. Smith and Thomas Dobson are each impleaded as County Commissioners for King County, Washington.

MALCOLM DOUGLAS,
Prosecuting Attorney,
HOWARD A. HANSON,
Deputy Prosecuting Attorney,
L. L. THOMPSON,
Attorney General of Washington,
Attorneys for Defendants.

Due service of the within demurrer acknowledged and receipt of copy thereof admitted this 28th day of May, 1921.

ROBT. C. SAUNDERS,
Attorney for Plaintiff.
By E. D. DUTTON.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. May 28, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [6]

In the District Court of the United States, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Memorandum Decision on Demurrer.

Filed June 25, 1921.

Hon. ROBT. C. SAUNDERS, U. S. Attorney, Hon. F. C. REAGAN, Ass't U. S. Attorney, for Plaintiff.

Hon. MALCOLM DOUGLAS, Prosecuting Attorney, HOWARD A. HANSON, Deputy Prosecuting Attorney, Hon. L. L. THOMPSON, Attorney General, for Defendants.

CUSHMAN, D. J.

The United States sues to recover from King County and the County Commissioners, a transportation tax, of which it alleges it has been deprived, and which accrued on account of amounts paid for the transportation of freight and passengers on certain ferry-boats maintained and operated by the County.

In the maintenance and operation of ferries, the county and its officers are not engaged in a private business, but, on the contrary, are acting in a state and county governmental capacity and for the benefit of the public.

Slaughter-House Cases, 16 Wall. (83 U. S.) 36 at 88;

East Hartford vs. Hartford Bridge Co., 10 How. (51 U. S.) 511. [7]

Therefore, So. Carolina vs. U. S. (199 U. S. 437) is not in point.

The rule is well recognized that the Government will not tax the State on account of its governmen-

tal acts and agencies in the discharge of its duty to the public.

U. S. v. B. & O. R. R. Co. 17 Wall. 322;
Collector v. Day, 78 U. S. (11 Wall.) 113;
Mercantile Bank v. N. Y., 121 U. S. 138;
Van Brocklin v. Tennessee, 117 U. S. 151;
Georgia v. Atkins, 1 Abbott, 22;
Pollock v. Farmers L. & T. Co., 157 U. S.
429;
Evans v. Gore, 253 U. S. 245;
Dobbins v. Commissioners of Erie, 16 Peters,
435.

Before any statute will be held to have contemplated, or undertaken to authorize the collection by the Federal government of a tax from the county—a governmental subdivision of the State—on account of its action in discharging its duty to the public, in a matter resting within its governmental authority to such an extent as does the maintenance and operation of a ferry, such intent would have to be clearly and explicitly expressed in the statute, which is not true in the present case.

Having reached this conclusion, it is unnecessary to determine whether the Government has, or has not such an authority.

The demurrer will be sustained.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jun. 25, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [8]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually, and as County Commissioners for King County, Washington,

Defendants.

Stipulation Re Amendment of Complaint.

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto, by their respective counsel, that the complaint herein may be amended by interlineation, by inserting in paragraph V thereof the word "wilfully" before the word "failed," at the beginning of the second line thereof, and by inserting in paragraph VI of said complaint the word "wilful" before the word "failure" in the first line thereof.

IT IS FURTHER STIPULATED AND AGREED between the parties hereto, by their respective counsel, that the demurrer of defendants shall be deemed to apply to the complaint as so amended, and the decision and judgment of the Court upon such demurrer shall so apply.

Dated at Seattle, Washington, this 28th day of July, 1921.

ROBT. C. SAUNDERS,
United States Attorney,
F. C. REAGAN,
Assistant United States Attorney,
Attorneys for Plaintiff.
MALCOLM DOUGLAS,
HOWARD A. HANSON,
Attorneys for Defendants. [9]

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jul. 29, 1921. F. M. Harshberger, Clerk.
[10]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Order Allowing Amended Complaint and Demurrer.

THIS MATTER coming on duly and regularly to be heard upon the stipulation of the parties hereto for the amendment of the complaint herein by interlineation in paragraphs V and VI of said complaint, and providing in such stipulation that the demurrer of the defendants to the complaint shall apply to the amended complaint, now, therefore,—

IT IS HEREBY ORDERED that the complaint herein be amended by interlineation as in such stipulation provided, and the clerk of the above-entitled court is hereby directed to interline the original complaint on file in his office in accordance with said stipulation; and

IT IS FURTHER ORDERED that the demurrer of the defendants to said complaint shall apply with like force and effect to the complaint as amended, and any judgment upon said demurrer shall apply with like force and effect to the complaint as amended and the demurrer thereto.

Done in open court this 28th day of July, 1921.

EDWARD E. CUSHMAN,
Judge.

O. K. as to form.

HOWARD A. HANSON,

O. K.—F. C. REAGAN,

Asst. U. S. Atty.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern

Division. Jul. 29, 1921. F. M. Harshberger, Clerk.
[11]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Order Sustaining Demurrer and Judgment of Dismissal.

THIS MATTER coming on duly and regularly to be heard before the above-entitled court on the 20th day of June, 1921, upon the demurrer of defendants to the bill of complaint herein, the parties hereto being represented in court by their respective attorneys of record, the demurrer having been argued to the Court and the matter having been submitted to the Court upon briefs of respective counsel, the Court having taken said matter under advisement and being fully advised in the premises, and having filed herein its memorandum opinion sustaining said demurrer, and the parties hereto have stipulated for the amendment of the com-

plaint by interlineation and that the demurrer of defendants to the complaint shall apply with like force and effect to the amended complaint, the Court having by order entered herein allowed such amendment in accordance with such stipulation, and having considered the complaint as amended and the demurrer thereto, and being fully advised in the premises; now, therefore,

IT IS HEREBY ORDERED that said demurrer to the original complaint be, and the same is hereby, sustained; and

IT IS HEREBY FURTHER ORDERED that said demurrer to the [12] original complaint as amended be, and the same is hereby, sustained.

Plaintiff having in open court refused to plead further and elected to stand upon its complaint herein,—

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the above-entitled action be, and it is hereby, dismissed.

To all of which plaintiff excepts, and its exception is hereby allowed.

Done in open court this 28th day of July, 1921.

EDWARD E. CUSHMAN,
Judge.

O. K. as to form.

F. C. REAGAN,
Asst. U. S. Atty.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jul. 29, 1921. F. M. Harshberger, Clerk.

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Petition for Writ of Error.

Comes now the United States of America, plaintiff in the above-entitled cause, and feeling aggrieved by the final judgment herein entered on the 29th day of July, 1921, petitions this Court for an order allowing it to prosecute a writ of error to the United States Circuit Court of Appeals for the Ninth Circuit, and according to the laws of the United States in that behalf made and provided, there to correct certain errors committed to the prejudice of the said plaintiff, which more in detail appear from the assignment of errors filed with this petition, and prays that a writ of error issue out of said Court of Appeals for the correction of the error so complained of, and that the transcript of the record and proceedings and papers in this

cause, duly authenticated, may be sent to said Court of Appeals.

ROBT. C. SAUNDERS,
United States Attorney,
F. C. REAGAN,
Assistant United States Attorney,
Attorneys for Plaintiff.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 6, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [14]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Assignment of Errors.

Comes now the plaintiff, United States of America, by and through Robert C. Saunders, United States District Attorney, and F. C. Reagan,

Assistant United States District Attorney, and files the following assignment of errors upon which it will rely upon its appeal from the judgment made by this Honorable Court on the 29th day of July, 1921, in the above-entitled cause:

I.

That the United States District Court for the Western District of Washington, Northern Division, erred in sustaining the demurrer of the defendants to the complaint of the plaintiff herein.

II.

That said District Court erred in dismissing said action.

ROBT. C. SAUNDERS,
United States Attorney,
F. C. REAGAN,
Assistant United States Attorney,
Attorneys for Plaintiff.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 6, 1921. F. M. Harshberger, Clerk.
By S. E. Leitch, Deputy. [15]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Order Allowing Writ of Error.

Comes the plaintiff, United States of America, by its attorneys, and files herein and presents to the Court its petition praying for the allowance of a writ of error on assignment of errors intended to be urged, and praying also that a transcript of record and proceedings, upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings be had as may be proper in the premises.

Now, on consideration thereof, the Court does hereby allow the writ of error prayed for.

Dated this 5th day of October, 1921.

EDWARD E. CUSHMAN,
United States District Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 6, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [16]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

**Admission of Service of Petition for Writ of Error,
etc.**

Due, timely and regular service, together with the receipt of copies thereof, of the plaintiff's petition for writ of error, assignment of errors, of order allowing writ of error, and praecipe for tran-

script of record, is hereby admitted this 5th day of October, 1921.

MALCOLM DOUGLAS,
Pros. Atty.,
HOWARD A. HANSON,
Dep. Pros. Atty.,
L. L. THOMPSON,
Atty. Gen'l of Washington,
Attorneys for Defendants.

Received a copy of the within this 5 day of October, 1921.

MALCOLM DOUGLAS,
Pros. Atty.,
HOWARD A. HANSON,
Dep. Pros. Atty.,
L. L. THOMPSON,
Atty. Gen'l of Washington,
Attorneys for Defendants.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 6, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [17]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Praecipe for Transcript of Record.

To the Clerk of the Above-entitled Court:

You will please prepare a typewritten transcript of record in the above-entitled cause on writ of error, and file the same in the United States Circuit Court of Appeals for the Ninth Circuit, said record to comprise the following papers:

1. Complaint.
2. Demurrer.
3. Memorandum decision.
4. Stipulation.
5. Order allowing amended complaint and demurrer,
6. Order sustaining demurrer, and judgment.
7. Petition for writ of error.
8. Assignment of errors.
9. Order allowing writ of error.

10. Admission of service.
11. This praecipe.

ROBT. C. SAUNDERS,

United States Attorney,

F. C. REAGAN,

Assistant United States Attorney,

Attorneys for Plaintiff. [18]

We waive the provisions of the Act approved February 13, 1911, and direct that you forward typewritten transcript to the Circuit Court of Appeals for printing, as provided under rule 105 of this Court.

ROBT. C. SAUNDERS,

United States Attorney,

F. C. REAGAN,

Assistant United States Attorney,

Attorneys for Plaintiff.

We hereby acknowledge service of copy of the foregoing praecipe, waive the right to request the insertion of any other matters than those incorporated in the foregoing praecipe, and stipulate that the proceedings, papers, orders and documents included in said praecipe constitute a full and sufficient record upon writ of error.

MALCOLM DOUGLAS,

Pros. Atty.,

HOWARD A. HANSON,

Dep. Pros. Atty.,

L. L. THOMPSON,

Atty. Gen'l of Washington,

Attorneys for Defendants.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 6, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [19]

United States District Court, Western District of Washington, Northern Division.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants.

Certificate of Clerk U. S. District Court to Transcript of Record.

I, F. M. Harshberger, Clerk of the United States District Court for the Western District of Washington, do hereby certify this typewritten transcript of record, consisting of pages numbered from 1 to 19, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the clerk of said

District Court, and that the same constitute the record on return to writ of error herein, from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses and costs incurred in my office on behalf of the plaintiff in error for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fees (Sec. 828, R. S. U. S.) for making record, certificate or return, 42 folios
at 15c \$6.30

[20]

Certificate of Clerk to transcript of record,	
4 folios at 15c60
Seal to said certificate20
<hr/>	
Total	\$7.10

I hereby certify that the above cost for preparing and certifying record, amounting to \$7.10 will be included in my quarterly account to the Government, of fees and emoluments for the quarter ending December 31st, 1921.

I further certify that I hereto attach and herewith transmit the original writ of error, original citation and original acceptance of service of writ of error and citation issued in this cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court,

at Seattle, in said District, this 19th day of October, 1921.

[Seal] F. M. HARSHBERGER,
Clerk United States District Court, Western Dis-
trict of Washington. [21]

In the United States Circuit Court of Appeals for
the Ninth Circuit.

No. —.

UNITED STATES OF AMERICA,
Plaintiff in Error,
vs.

KING COUNTY, WASHINGTON, a Municipal
Corporation, CLAUDE C. RAMSAY, LOU
C. SMITH, and THOMAS DOBSON, Indi-
vidually, and as County Commissioners for
King County, Washington,

Defendants in Error.

Citation on Writ of Error.

The United States of America,—ss.

The President of the United States of America, to
Malcolm Douglas, Howard A. Hansen and L. L.
Hunt, Attorneys for Defendants in Error,
GREETING:

You are hereby cited and admonished to be and
appear before the United States Circuit Court of
Appeals for the Ninth Circuit at San Francisco, in
the State of California, within thirty days from the
date hereof, pursuant to a writ of error filed in the

clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein the United States of America is plaintiff in error, and King County, Washington, a municipal corporation, Claude C. Ramsay, Lou C. Smith and Thomas Dobson, individually and as King County Commissioners, are defendants in error, to show cause, if any there be, why judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the party in that behalf.

WITNESS, the Honorable EDWARD E. CUSHMAN, Judge of the District Court of the United States for the Western District of Washington, Northern Division, this 8th day of October, 1921.

[Seal] Attest: EDWARD E. CUSHMAN,
United States District Judge.

[Endorsed]: No. —. In the Circuit Court of the United States for the Ninth Circuit. United States of America, Plaintiff in Error, vs. King County, Washington, a Corporation, et al., Defendants in Error. Citation on Writ of Error. Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 8, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

In the United States Circuit Court of Appeals for
the Ninth Circuit.

No. 5926.

UNITED STATES OF AMERICA,

Plaintiff in Error,

vs.

KING COUNTY, WASHINGTON, a Municipal
Corporation, CLAUDE C. RAMSAY, LOU
C. SMITH, and THOMAS DOBSON, Indi-
vidually and as County Commissioners for
King County, Washington,

Defendants in Error.

**Acceptance of Service of Writ of Error and Cita-
tion on Writ of Error.**

Due and timely service of writ of error and cita-
tion on writ of error in the above-entitled cause is
hereby acknowledged this 10th day of October,
1921.

MALCOLM DOUGLAS,
Pros. Atty.,
HOWARD C. HANSON,
Dep. Pros. Atty.,
L. L. THOMPSON,
Atty. Gen'l of Washington,
Attorneys for Defendants in Error.

Copy of within received Oct. 10, 1921.

MALCOLM DOUGLAS,
Prosecuting Attorney.

[Endorsed]: No. ——. In the District Court of the United States for the Western District of Washington, Northern Division. United States of America, Plaintiff in Error, vs. King County, Washington, a Municipal Corporation, et al., Defendants in Error. Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 10, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

In the United States Circuit Court of Appeals for the Ninth Circuit.

No. ——.

UNITED STATES OF AMERICA,

Plaintiff in Error,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation, CLAUDE C. RAMSAY, LOU C. SMITH, and THOMAS DOBSON, Individually and as County Commissioners for King County, Washington,

Defendants in Error.

Writ of Error.

The United States of America,—ss.

The President of the United States of America,
to the Honorable Judges of the District Court
of the United States for the Western District
of Washington, Northern Division, GREET-
ING:

Because in the record and proceedings, as also

in the rendition of the judgment of a plea which is in said District Court, before the Honorable Edward E. Cushman, between United States of America, the plaintiff in error, and King County, Washington, a municipal corporation, Claude C. Ramsay, Lou C. Smith and Thomas Dobson, individually and as County Commissioners for King County, Washington, the defendants in error, a manifest error hath happened to the prejudice and great damage of United States of America, plaintiff in error, as by its complaint and petition herein appears, and we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, DO COMMAND YOU, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, together with this writ, so that you have the same at the said city of San Francisco within thirty days from the date hereof, in said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid being then and there inspected, said United States Circuit Court of Appeals may cause further to be done therein to correct the error what of right, and according to the laws and customs of the United States of America should be done in the premises.

WITNESS the Honorable WILLIAM HOWARD TAFT, Chief Justice of the United States, this 8th

day of October, 1921, and the year of the Independence of the United States, one hundred and forty-fourth.

[Seal] F. M. HARSHBERGER,
Clerk of the District Court of the United States
for the Western District of Washington.

Acceptance of service of within writ of error acknowledged this — day of October, 1921.

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Attorneys for Defendants in Error.

[Endorsed]: No. —. In the Circuit Court of Appeals of the United States for the Ninth Circuit. United States of America, Plaintiff in Error, vs. King County, Washington, a Municipal Corporation, et al., Defendants in Error. Writ of Error. Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 8, 1921. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

[Endorsed]: No. 3790. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Plaintiff in Error, vs. King County, Washington, a Municipal Corporation, Claude C. Ramsey, Lou C. Smith and Thomas Dobson, Individually and as County Commissioners for King County, Washington, Defendants in Error. Transcript of Record. Upon Writ of Error to the

United States District Court of the Western District of Washington, Northern Division.

Filed October 22, 1921.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.

